

REMARKS

I. Status Summary

Claims 28-30 are currently pending in the subject patent application. Claims 28-30 have been examined by the Patent Office and currently stand rejected.

The Patent Office has rejected claims 28-30 under 35 U.S.C. §103(a) upon the contention that the claims are unpatentable over Claes et al. (2001) *Am J of Human Genet* **68**:1327-1332 (hereinafter referred to as "Claes et al.").

Claims 28-30 have been canceled without prejudice. New claims 31-36 have been added. Support for new claims 28-30 can be found throughout the specification as filed, including particularly at page 5, lines 1-24; page 7, lines 11-14; in Figure 1; Table 3; and in original claims 1 through 4. No new matter has been added.

Reconsideration of the application based on the arguments set forth herein is respectfully requested.

II. Telephone Interview Summary

A telephone interview was scheduled and conducted on November 12, 2009. Participating in the Interview were Examiner Stephen Kapushoc and applicants' counsel of record, Arles A. Taylor, Jr. and Leon Legleiter. Applicants wish to express their sincere appreciation for Examiner Kapushoc's time and consideration in participating in the Telephone Interview.

Proposed new claims were discussed. It is believed that new claims 30-36 as presented herein above are consistent with the proposed new claims discussed in the telephone interview. Accordingly, applicants submit new claims 30-36 formally herein.

III. Response to the 35 U.S.C. §103(a) Rejection in view of Claes et al.

In the Advisory Action the Patent Office has rejected claims 28-30 under 35 U.S.C. §103(a) upon the contention that the claims are unpatentable over Claes et al. Particularly, the Patent Office asserts that it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have used the explicit teachings of Claes et al. to perform an analysis of a patient suspected of SMEI that meets all of the required limitations of the rejected claims.

Without acquiescing to the contentions of the Patent Office, claims 28-30 have been canceled. Accordingly, applicants respectfully request that the rejection of claims 28-30 under 35 U.S.C. § 103(a) over Claes et al. be withdrawn as moot.

Additionally, it is respectfully submitted that new claims 30-36 are patentably distinguished over Claes et al. A Notice of Allowance is also respectfully requested.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT


The Commissioner is hereby authorized to charge any other fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR, & HUNT, P.A.

Date: 11-13-2009

By: _____


Leon R. Legleiter
Registration No. 61,011
Customer No. 25297
(919) 493-8000

AAT/LRL/dbp

1386/19